EXHIBIT A

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MICROSOFT CORPORATION,	)	
	)	
Plaintiff,	)	10-01823-JLR
	)	
v.	)	SEATTLE, WASHINGTON
	)	
MOTOROLA INC., et al,	)	May 7, 2012
	)	
Defendants.	)	Motions
	)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Arthur Harrigan, Christopher Wion, David Pritikin, Richard Cederoth, Andy Culbert, David Killough, David Howard and Shane Cramer

For the Defendants: Jesse Jenner, Ralph Palumbo, Norman Beamer, Philip McCune, Kevin Post and Neill Taylor

authority to decide, and then you're all going to be sorry because I'm going to do what I think is right.

THE COURT: To open the door to the skeleton in that closet is you all have asked for a jury. I'm just going to sit up here and watch six good citizens of the Pacific Northwest decide what the royalty is. So, if you don't want that to happen, you want to start discussing that question, because that's where you're headed right now.

MR. JENNER: Your Honor, let me take you quickly to slide 48. Because I anticipate Microsoft feels that they got some good things out of Judge Shaw and the ITC. And I don't want you to think that we agree necessarily with that. I've quoted three of the judge's conclusions from pages 300 to 303 where the judge focused on RAND.

THE COURT: Before do you that, Judge Shaw is an administrative law judge?

MR. JENNER: Yes.

THE COURT: And there's an appeal process?

MR. JENNER: There's a petition for review by the full commission. The petitions are actually getting filed today. I think they are getting filed today. That will result in a determination by the commission of what it wishes to review, probably further briefing. And they will issue a final determination sometime in late August.

THE COURT: So, would it be correct to characterize

So the suggestion the court made that, tell us whether you accept within 20 days, sounds like an ultimatum, is consistent with the fact that Motorola wasn't going to back off its 2.25 percent, no matter what counteroffers Microsoft made.

THE COURT: How do you know that?

MR. HARRIGAN: Because they say so, in their brief. They say they always get 2.25 percent.

THE COURT: You didn't know that at the time.

MR. HARRIGAN: Well, what Microsoft knew at the time, Your Honor, was the demand was 2.25 percent for the standard essential patents on the price of a laptop, among other things -- which is kind of important, which I'll also get to in a second -- and you give us your standard essential patents also. That was what Microsoft knew.

And what Microsoft didn't know, I presume they didn't know this, was that Motorola was never backing off the 2.25 percent. But what matters for this case is, was the letter a breach? Because the breach has to be measured based upon what Motorola was saying when it said it, not what it says now about what it really meant.

THE COURT: Well, this takes me to one of my favorite aspects of this case, which is how am I going to determine if it was unreasonable until I know what RAND terms are? And I'm not going to know what RAND terms are until November 26th

when the jury comes back.

MR. HARRIGAN: Well, Your Honor, I think that -- if we take the example of the laptop, I believe that as a matter of law it's unreasonable. And that's apart from some of the other evidence with regard to the total amount of royalties and how they relate to essentially being 20 percent of Microsoft's annual profits for a tiny little piece of the operating system.

The fact is that Motorola's technology that contributes to the operating system is a tiny little part of Microsoft's operating system. And as a matter of law, the only way that Motorola could get a percentage of the price of the operating system, would be to demonstrate that its little contribution to that operating system is the basis for customer demand for the operating system. But it's not asking for a percentage of the operating system, it's asking for a percentage of the laptop price.

There is no way that Motorola's standards essential patents on this, for the operating system, are on the basis of customer demand for it, much less the customer demand for the laptop, which is the requirement under the entire Market Value Rule, if you are going to get a royalty based on a percent of the product price. And under those cases the burden is on the Patent Holder to demonstrate that its technology is the basis of customer demand.

breach that, in fact, there is no way to get there by reading those two letters. They asked for 2.2 -- there were two standards. They sent two letters. They asked for 2.25 percent in each letter. They listed the products they wanted it on. If you read those two letters you would immediately conclude that you're paying four and a half percent total; or at least that they were separate royalties for 2.25 percent, for each standard.

And Motorola has come forward with no evidence to suggest that that level of royalty would be reasonable. And so if we're going to measure their conduct in those letters it should be measured in the way that -- it should be measured according to the way that the letters were written. And you just can't get to the position that they now say is their normal approach.

Let me just see if I have left off anything terribly important. Oh, one other thought I did want to express, Your Honor, you alluded to the jury setting the RAND rate, or determining the terms. And we believe the court can decide that without a jury. We're not here to debate that today. But I just want to let you know that that's something that would probably be debated when the appropriate time comes. Thank you.

MR. JENNER: Your Honor, at the risk of wearing out my welcome, will you take four points in reply?

policy for the federal court.

In other words, federal courts should permit and even encourage the parties to continue negotiations in good faith until it's clear that both have negotiated in good faith, and they have a genuine good-faith disagreement on the RAND terms, and the dispute will not be resolved without the court's intervention to resolve the dispute. Proceeding in that manner does not require any change in the case schedule in this case. Motorola and Microsoft have something less than seven months between now and November 19th to reach an agreement on all the RAND terms.

So what are the possibilities? First possibility, you could determine on November 19th that one or the other party had not negotiated in good faith, and you could think about remedies for that. Second possibility, the parties could reach an agreement on some but not all RAND license terms. And if the court then determined that it was going to submit those terms to the court's determination, you'd have less to deal with. Or, the parties could agree upon all terms. And proceeding in that manner is, we think, consistent with the law, we think it's good policy for the federal court, and we think it makes a great deal of sense.

THE COURT: Does that mean you're joining Microsoft in taking this issue away from the jury?

MR. PALUMBO: We have to think about that, Your

Honor. We certainly considered whether this is simply a matter of equity that would be for your determination only. But I'd like to talk with the clients and talk with the other lawyers before we weigh in. But if there is a disagreement between us and Microsoft on that point, I'm sure you're going to hear about it and the basis for it.

So the issues before the court are the two issues that I have on the screen. Do the RAND Letters of Assurance and our offer to Microsoft categorically bar Motorola for seeking injunctive relief for the three H.264 patents? It's only the H.264 patents that are at issue in this motion. And the second issue is whether you should refrain from determining whether Motorola could meet its burden of proving the four-part test.

This motion comes to you in a manner that is somewhat unprecedented. In all the cases cited in both the parties' briefs, the Patent Holder makes a motion for injunctive relief, supported by evidence that the Patent Holder has offered to satisfy the four-part test for granting injunctive relief. Some of those cases are preliminary injunction cases, some are permanent injunction cases where there had been a finding at trial of patent validity and infringement. Motorola has not made and does not intend to make a preliminary injunction motion.

If Motorola's patents are judged valid and Microsoft's

EXHIBIT B

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MOTOROLA INC., et al,	)	
	)	
Plaintiffs,	)	11-1408-JLR
	)	
v.	)	SEATTLE, WASHINGTON
	)	
MICROSOFT CORPORATION,	)	June 14, 2012
	)	
Defendant.	)	Markman Tutorial
	)	and Status Conf.

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Jesse Jenner, Ralph Palumbo, Steve Pepe, Stuart Yothers, Khue Hoang and Mark Rowland

For the Defendants: Arthur Harrigan, Theodore Chandler, Shubham Mukherjee, John McBride, Christopher Wion, Rick Cederoth, Andy Culbert and David Pritikin

can pick a jury in a morning. My procedure is to ask the bench-book questions, take stuff out of your proposed voir dire, which is usually loaded up with things that you don't want to ask, and it's easier for the court to ask, and then give counsel the opportunity to do their own voir dire.

It is not unusual to have a couple, sometimes more than that, of the jury pool be Microsoft employees, because Microsoft has a very gracious policy in regards to jury service, which the court appreciates immensely. I'm not sure the criminals do.

As a result, your jury selection may be slightly more difficult, and therefore it's going to vary a little bit on how much remaining trial time you have. And that's why we'll get to your third topic.

MR. HARRIGAN: In a nutshell, Your Honor, the parties agree there is no jury involved -- there's no jury requirement with respect to the court's determination of what is RAND, and the contract, and so forth; and disagree with respect to whether a jury would be required to deal with the breach of contract part of the case.

THE COURT: All right.

MR. HARRIGAN: And we will continue to see if we can reach agreement, otherwise we're probably going to be briefing this issue for the court.

MR. PALUMBO: That's right, Your Honor. Our

agreement is that the court would decide all the material terms of the RAND license. And we currently have a disagreement with respect to whether the breach of contract action would be tried by the court or by a jury.

And since -- if we can't reach agreement on that, it will require briefing. We're just going to put it off and submit briefs on that issue if it becomes a question.

And in requesting ten days, I had assumed in our calculation that we would take a half a day to select the jury. So I think our request for ten days is not dependent on whether there is or is not a jury.

MR. HARRIGAN: Just one qualification, Your Honor. We don't mean, in the way Mr. Palumbo expressed the first part of that, to be defining what the court is deciding. We're just saying that the RAND determination part of the case doesn't require a jury, whatever that may be.

THE COURT: All right.

MR. PALUMBO: And our position, as stated again, if we have a disagreement on whether you're deciding all the RAND terms, or what those terms are, that is going to be subject to briefing. So we're simply putting that over. So that's our understanding of what the issues at trial would be.

MR. HARRIGAN: So the issue No. 2 is a question relating to a stay of the issues in this case that do not

EXHIBIT C

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

Microsoft Corporation, et al.,

Plaintiffs,

v.

Motorola, Inc., et al.,

Defendants.

NO. C10-1823JLR

TELEPHONE CONFERENCE

SEATTLE, WASHINGTON
July 9, 2012

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs: Arthur Harrigan

For the Defendants: Ralph Palumbo
Jesse Jenner

Reported by: Denae Hovland, RPR, RMR, CRR
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Proceedings recorded by mechanical stenography, transcript produced by Reporter on computer.

since that is what is covered in your letters.

At one point Mr. Jenner said something about, "Oh, but, Judge, you know, these agreements are 70 pages long," of which I expect 69 pages and 24 lines to be boilerplate, and what you really care about are the royalty rates. And, therefore, I am going to have you submit an agreed agreement, or if you are unable to do so, to submit contested boilerplates and we may develop one.

In regards to the breach of contract claim, that will not be tried in the November trial date. As I have explained to you previously, my reason for that is the breach of contract, as Motorola has admitted, exists in relation to the RAND Rate. I think Mr. Jenner's example was a million dollars Royalty Rate for one patent and the RAND Rate turns out to be 15 cents. Since I don't know what the RAND terms are yet, it seems to me I can't deal with breach of contract until RAND is determined.

Finally, I have waited patiently for Motorola to advise me if breach of contract is a court trial or a jury trial. I am now setting a deadline of 4:30 this Friday for that election to be made.

Mr. Palumbo, I believe you initiated the call so I'll hear from you first.

MR. PALUMBO: Thank you, Your Honor. As we said in our partial summary judgment briefing and during argument on the partial summary judgment motions, we have been unable to find any

the Court and Microsoft. We understand the urgency of resolving this issue, so despite the fact that there is a lot going on, including the close of fact discovery and expert reports fast approaching, we would be prepared to file a brief on that issue nine days from now on Wednesday, July 18th.

In answer to your other question, we have decided not to waive the jury trial on the breach of the duty of good faith issue, and with respect to that issue, we think -- we do agree that that is a triable issue that the jury can determine. In other words, did Motorola accord to its obligation to negotiate the contract in good faith? We may have issues with respect to whether the court can instruct the jury as to the proper RAND rate, but we agree that it is a jury question as to whether Motorola has conformed to its obligation to negotiate a RAND license in good faith.

THE COURT: Mr. Palumbo, isn't it rather late in the game for Motorola to repudiate concessions made during oral argument and announce another new theory of the case? You know, frankly, this -- I am sitting here in disbelief that you are going to try this.

MR. PALUMBO: Your Honor, I expected that you would be sitting there in disbelief, and the only explanation I have is if you recall, Microsoft's theory in this case has evolved since they filed the complaint from asking -- to the point where they said, we're committed to take a license and we want the court to

EXHIBIT D

UNITED STATES DISTRICT COURT.

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MICROSOFT CORPORATION, Plaintiff,	)	C 10-01823-JLR
v.	)	SEATTLE, WASHINGTON
MOTOROLA INC., et al, Defendant.	)	January 28, 2013 Motion Hearing

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Arthur Harrigan, Christopher Wion, David Pritikin, Rick Cederoth, Andy Culbert and Doug Lewis

For the Defendants: Jesse Jenner, Ralph Palumbo, Philip McCune, Steve Pepe, Kevin Post, Gabrielle Higgins and Carolyn Redding

negotiation." And on the last line it provides that the agreement shall be construed in accordance with its terms, without favor to any party. So this entire subject is superseded by the document, by the agreement, which Motorola did not address.

Secondly, the issue of construction against the drafter in this case needs to be considered in light of the fact that Motorola itself was part of the drafting process, got all the e-mails, understood, had every reason to understand why this provision was in there, and that its scope was as stated in the e-mails, and as effected by the interpretation that we are advancing.

Finally, I would just say if you look at the New York cases cited by Motorola -- in fact, two things. One is that in New York construction against the drafter is a last-resort rule that applies when all other efforts to construe the document have failed. And secondly, it is generally not applied to sophisticated parties.

THE COURT: Mr. Harrigan, when did Google acquire Motorola?

MR. HARRIGAN: It was in, I believe, mid-2012.

THE COURT: Why wasn't this issue brought up to the court sooner?

MR. HARRIGAN: Well, Your Honor, the basic reason was the concern about maintaining the trial date. The process --

there were various reasons. The process of getting Google into this case would have been complicated. And we were concerned if we undertook that, that we would end up potentially with a continuance. That was the primary concern.

THE COURT: But you inserted the issue into the trial. I'm at a loss why it wasn't raised sooner so that we could have had a fuller record.

MR. HARRIGAN: Well, Your Honor, I believe what we did was to argue that the acquisition and the agreement created a very clear comparable, number one. And number two, as a matter of law this will determine what Motorola's royalty rate is. And that is a legal issue that we believe the court can decide without Google being in the case. It's a legal issue that bears on the RAND rate as between Microsoft and Motorola, because at the end of the day it will determine that. And it wouldn't make much sense to adopt a rate that's different from the one that the contract is going to compel.

So, I'm frankly not -- I don't have memorized exactly what the procedural sequence was. But we did argue it soon after it came up. We wrote a letter to Google and asked for them to honor the agreement. And I apologize if we didn't act as promptly as we might have. But our main concern was, do we need to bring Google in? And we concluded that whether we